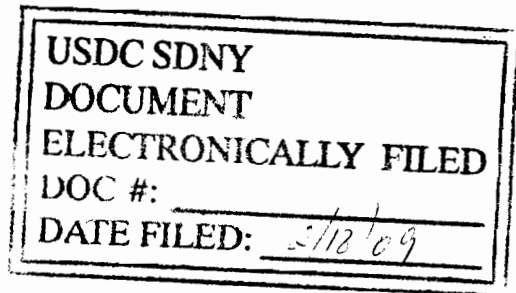


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x
RCPI LANDMARK PROPERTIES, LLC,

Plaintiffs,

– against –

ROCKEFELLER GROUP, INC., CLUB
QUARTERS, INC., and CLUB QUARTERS
MANAGEMENT COMPANY LLC,

Defendants.
-----x

06 Civ. 3468 (TPG)

ORDER

In two separate motions, defendants have moved to exclude certain documents from the record of this case. The motions are denied.

On February 13, 2007, the court approved a stipulation that limited the claims at issue in this litigation and specified which factual materials the court should consider in future rulings. On March 25, 2008, the court granted plaintiff's motion for leave to supplement the factual record and to file a "Supplemental Second Amended Complaint" based on new information learned by plaintiff after the February 2007 order. In order to avoid any prejudice to defendants, however, the court also authorized defendants to supplement the record and amend its answer. Defendants subsequently filed pleadings, affidavits, and a memorandum of law.

In response to defendants' filings, plaintiff filed a memorandum of law and an affidavit attaching various exhibits. Defendants move to

exclude these documents from the record on two grounds. First, defendants claim to be prejudiced by the documents because they will not have an opportunity to file a response. Second, they argue that plaintiffs' submissions were not envisioned by the court's prior orders. Plaintiff responds that the documents were submitted only to rebut assertions made by defendants in their filings, and that the court's prior orders did not bar plaintiffs from filing documents in response to defendants' submissions.

Defendants are not prejudiced by allowing plaintiff to submit documents that merely rebut the assertions made by defendants in their filings. Although the court's prior orders may not have explicitly envisioned the filing of additional documents by plaintiff, that does not merit the exclusion of the documents from the record.

Defendants' motions to exclude (docket entries 103 and 104 in this case) are therefore denied.

SO ORDERED.

Dated: New York, New York
February 18, 2009

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Thomas P. Griesa
U.S.D.J.